

that mortgage foreclosure—at least, with legal fees and other expenses. And in 99 percent of the cases in mortgage foreclosure, the house ends up on the inventory of the bank. That banker who sits behind the desk at your local bank now has to worry about who is going to cut the grass, who is going to drive by to make sure the home is not being vandalized, how in the world they are going to sell it.

What we are trying to do is set up a process so these homes facing foreclosure, thousands and thousands of homes in the city of Chicago which I am honored to represent, and millions of people across America have a fighting chance.

Now, I have made concessions. I have worked on compromises over the 2 years. Some of the financial institutions are finally saying: All right, we will talk to you. When I started working on this problem 2 years ago, they predicted as many as 2 million families in America could lose their homes. They predicted 2 million. We were told by the lending industry that those estimates were grossly exaggerated: 2 years ago, 2 million.

Goldman Sachs now estimates as many as 13 million homes could be lost to foreclosure in the next 5 years. That is one out of every four private residences in America lost to foreclosure, a foreclosed home on every block in every city in every State in America, on average. That is the reality and the truth of this crisis.

Last year when I called up this bill, they said: DURBIN, there you go again. You are exaggerating it. It is not going to be that bad. We will take care of the problem. Well, we gave them all of the help to take care of it, the voluntary programs, and at the end of the day, where are we? We are in a desperate position in this country where we have to step up and finally break this cycle of mortgage foreclosures.

Both sides have to give. I have been willing to compromise, some of the banking institutions have been, to make sure people go into the bank before they go into bankruptcy court, to give them a chance to work out the terms of a mortgage they can afford so they can stay in their homes and neighborhoods can be stabilized.

That is why I fully support President Obama's plan to help 3 to 4 million homeowners save their homes by modifying their mortgages to make them more affordable. The plan creates incentives that we need so that banks will finally do what has not been done for 2 years: aggressively modify loans so foreclosures can be avoided. That is in the best interests of homeowners and banks.

But this plan is voluntary. Voluntary plans have successively failed. Every time we have said to the financial institutions: We will leave it up to you, you decide whether you want to do something, nothing is done of any major consequence. If the lenders don't want to participate in the President's

plan or previous plans, they don't have to.

The program pays servicers taxpayer money to offer loan modifications that may not be enough. We need to have at the end the possibility—not the probability but the possibility—that the bankruptcy court will have the last word. That is why the administration has included my plan in their proposal. The President supports my change in the Bankruptcy Code to allow mortgages on primary residences to be modified in bankruptcy just as other debts. If banks don't want judges to modify mortgages for them, they will be far more likely to do it themselves. How would it work? Only families living in the home would qualify. This isn't for speculation. This isn't for that extra condo you bought somewhere in hopes that you could turn a buck. It is your primary residence, the one you live in. Only mortgages for which the foreclosure process has started are eligible. No one who can pay their current mortgage can have a judge change those terms. Judges would be limited in how they can modify the mortgages. They could never create a mortgage that would create a worse result for the bank than foreclosure.

If this bill passes, taxpayers don't lose a buck, and we could have a positive result where many people could win. The mortgages that are modified in bankruptcy will provide far more value to lenders and investors than foreclosure.

Best of all, there is no expense to taxpayers.

This is expensive to taxpayers. Why? Because if the home next door to you goes into foreclosure, the value of your home goes down, property tax revenues go down, and the local unit of government loses the revenue it could receive from those property taxes, for starters.

If you can't buy and sell a home in your neighborhood, do you know what that means to the realtor, to the people who build homes, to those who sell carpeting for new homes, right on down the line?

I will return to the floor next week to talk about this bill. I know opponents hate it. I can't persuade some of them no matter what I do, no matter what concessions I make. But I will not give up. For 2 years, we have been fighting to pass a strong housing bill to turn away this tide of foreclosures in Chicago and across America. I hope that on a bipartisan basis we can do that starting very soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. What is the business pending before the Senate at the moment?

The PRESIDING OFFICER. The nomination of Elena Kagan to be Solicitor General.

Mr. SPECTER. Mr. President, I came at 2 o'clock, when this nomination was listed for argument, and another Senator was speaking on another subject.

We have just heard another Senator speaking on still another subject. Only two Senators have spoken so far in favor of the nomination. I say to my colleagues on both sides of the aisle, if they have anything to say about the nominee, they ought to come to the floor and speak.

The chairman has raised a proposal about voting on the nomination and speaking afterward. Part of our deliberative process is to have Senators speak with the prospect—maybe unrealistic, maybe foolish—of influencing some other votes. We are not going to influence any votes if we speak after the vote is taken. But it may be that we are not going to have speakers. I urge my colleagues to come to the floor. This is Thursday afternoon. In the Senate, that is a code word. It means we are about to leave. There are no votes tomorrow, so there will be some interest in departure not too long from now. I think we ought to conclude at a reasonable time.

In advance, I had been advised that quite a number of people want to speak for quite a long time. We got an allocation of 3 hours for the Republican side. That means 6 hours equally divided. Now it appears that some who had wanted extensive time will now not be asking for that extensive time. We ought to make the determination as soon as we can as to who wants to speak and for how long so that we can figure out when is a reasonable time to have the vote and conclude the debate so Senators may go on their way.

Turning to the subject matter at hand, the nomination of Dean Elena Kagan for Solicitor General of the United States. I begin by noting Dean Kagan's excellent academic and professional record. I call her Dean Kagan because she has been the dean of the Harvard Law School since 2003.

She has excellent academic credentials: summa cum laude from Princeton in 1981, and magna cum laude from the Harvard Law School in 1986, where she was on the Harvard Law Review. She clerked for Circuit Judge Mikva and Supreme Court Justice Marshall and she has had government service.

I ask unanimous consent that her resume be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. The office of Solicitor General is a very important office. That is the person who makes arguments to the Supreme Court of the United States on behalf of the United States government. In addition to making arguments, the Court frequently asks the Solicitor General for the Solicitor General's opinion on whether a writ of certiorari should be granted in pending cases. So the Solicitor General is sometimes referred to as the 10th Supreme Court Justice—a pretty important position.

I have gone to substantial length, really great length, to find out about